

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEONARD PINA-RODRIGUEZ,
Plaintiff,

v.

CORRECTIONAL DIAGNOSTIC IMAGING,
INC., CONTRACTOR,
Defendant.
-----X

ORDER

18 CV 5167 (VB)

Plaintiff, who is proceeding pro se and in forma pauperis, commenced this action by filing a complaint on June 7, 2018. (Doc. #2). At that time, plaintiff was incarcerated at Fishkill Correctional Facility. (See id. at 1).

As the Court stated in its Order of Service dated September 10, 2018, it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so. (Doc. #7 at 3).

The September 10 Order of Service was mailed to plaintiff, along with an "Instructions for Litigants Who Do Not Have Attorneys" pamphlet and a blank "Notice of Change of Address" form. (Doc. #8). Like the September 10 Order of Service, the Instructions pamphlet also states it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so. (See id. at ECF 2).

On June 29, 2020, the Court granted defendants Britta Viereckl-Prast, Kenneth Conicelli, and M.D. Saleh's motion to dismiss and terminated them as defendants in this action. (Doc. #58).

On September 3, 2020, plaintiff filed a second amended complaint. (Doc. #64).

On October 5, 2020, defendants U. S. Mobile Imaging, LLC, and Gary Garbutt moved to dismiss the second amended complaint. (Doc. #71). On December 4, 2020, Correctional Diagnostic Imaging, Inc. filed an answer to the second amended complaint. (Doc. #82).

On June 21, 2021, the Court granted defendants U. S. Mobile Imaging, LLC, and Gary Garbutt's motion to dismiss and terminated them as defendants in this action. (Doc. #90).

On August 19, 2021, defendant Correctional Diagnostic Imaging, Inc., filed a motion for judgment on the pleadings. Plaintiff's opposition to defendant's motion was due September 6, 2021. Because plaintiff failed to timely oppose defendant's motion, by Order dated September 20, 2021, the Court sua sponte extended plaintiff's time to oppose defendant's motion for judgment on the pleadings. (Doc. #97).

On October 7, 2021, the Court received notice that its September 20 Order, which was mailed to plaintiff at his address at Fishkill Correctional Facility, was returned as undeliverable because plaintiff was no longer at Fishkill Correctional Facility. Information provided on the Department of Corrections and Community Supervision website suggests plaintiff has been released from custody.

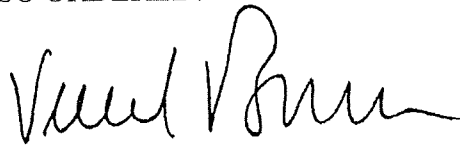
Accordingly, by November 2, 2021, plaintiff must update the Court in writing as to his current address. Failure to comply with the Court's Order will result in dismissal of the action for failure to prosecute or comply with Court orders. Fed. R. Civ. P. 41(b).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Dated: October 19, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge